



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,446	05/24/2002	Nicolaas Van Der Blom	NVB1-BQ11	1466

7590 05/15/2003  
Gordon E Gray III  
Price & Gess  
Suite 250  
2100 SE Main Street  
Irvine, CA 92614

EXAMINER

KERSHTEYN, IGOR

ART UNIT	PAPER NUMBER
----------	--------------

3745

10

DATE MAILED: 05/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/009,446

Applicant(s)

VAN DER BLOM, NICOLAAS

Examiner

Igor Kershteyn

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 3 is/are allowed.
- 6) ☒ Claim(s) 1,4-10,26,29,30,33 and 35 is/are rejected.
- 7) ☒ Claim(s) 11-25,27,28,31,32,34 and 36-39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Objections***

Claims 26-28 are objected to because of the following informalities:

Claim 26 recites the limitation "the piston rod" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitation "a cap" in line 4. It is confusing either it is a new limitation or it is the limitation recited in the claim in line 3.

Claim 27 recites the limitation "the skin" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 28 recites the limitation "a stop" in line 2. It is confusing either it is a new limitation or it is the limitation recited in the claim 27, in line 4.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 7, 26, 29, 30, 33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Fabel et al. (2,710,077).

In figures 1-7, Fabel et al. teach a device comprising a combination of a chamber **a, b** and a piston 19 positioned inside the chamber, said chamber and said piston relatively moveable to each other in a predetermined direction of movement between first position (retracted) and a second position (extended), wherein the cross-section of the chamber in a plane perpendicular to the direction of movement is larger at the first position than at the second position, the change of the cross-section of the chamber is essentially continuous between the first position and the second position, and the cross-section of the piston 19 is arranged to adapt itself to the cross-section of the chamber.

Claims 1, 4-10, 30, 33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Derr (5,577,579).

In figure 2, Derr teaches a device 55 comprising a combination of a chamber **(not numbered)** and a piston 56 positioned inside the chamber, said chamber and said piston 56 relatively moveable to each other in a predetermined direction of movement between first position (retracted) and a second position (extended), wherein the cross-section of the chamber in a plane perpendicular to the direction of movement is larger at the first position than at the second position, the change of the cross-section of the chamber is essentially continuous between the first position and the second position, and the cross-section of the piston 56 is arranged to adapt itself to the cross-section of the chamber.

***Allowable Subject Matter***

Claims 11-25, 27, 28, 31, 32, 34, and 36-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of four patents.

Hadford (1,266,252) is cited to show a variable chamber pump wherein the chamber is not moveable relatively to a piston.

Strubin (3,908,512) is cited to show a device having a chamber and a piston wherein the chamber has the cross section that progressively increased in the direction of piston travel, the piston is arranged to adapt itself to the cross section of the chamber, but fails to teach the camber being moveable relatively the piston.

Soulsin (4,048,905) is cited to show a variable chamber actuator wherein the chamber is not moveable relatively to a piston.

Schmidt et al. (4,901,828) is cited to show a device having a chamber and a piston wherein the chamber has the cross section that progressively decreased in the direction of piston travel, the camber and the piston being moveable relatively to each other, but fails to teach the piston being arranged to adapt itself to the cross section of the chamber.

**Contact information**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is (703) 308 8317. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on (703) 308 1044. The fax number is (703) 305 3588.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK  
May 7, 2003

  
**Igor Kershteyn**  
**Patent examiner.**  
**Art Unit 3745**

  
**EDWARD K. LOOK**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 3700**  
5/12/03